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09/851,644	05/09/2001	Peter J. Neumayer	SMUS.0008	3598

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Timothy F. Loomis  
Law Offices of Timothy F. Loomis  
2932 Hagen Drive  
Plano, TX 75025

EXAMINER

GART, MATTHEW S

ART UNIT	PAPER NUMBER
3625	

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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Offic Action Summary</b>	<b>Application No.</b> 09/851,644	<b>Applicant(s)</b> NEUMAYER, PETER J.  <b>Examiner</b> Matthew s Gart  <b>Art Unit</b> 3625
<i>-- The MAILING DATE of this communication appears on the cover sh t with th correspondence address --</i>		
<b>Period for Reply</b>		
<p>A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.</p> <ul style="list-style-type: none"> <li>- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.</li> <li>- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.</li> <li>- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.</li> <li>- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).</li> <li>- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</li> </ul>		
<b>Status</b>		
<p>1)<input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>25 November 2002</u>.</p> <p>2a)<input type="checkbox"/> This action is FINAL.                    2b)<input checked="" type="checkbox"/> This action is non-final.</p> <p>3)<input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i>, 1935 C.D. 11, 453 O.G. 213.</p>		
<b>Disposition of Claims</b>		
<p>4)<input checked="" type="checkbox"/> Claim(s) <u>1-13 and 17-25</u> is/are pending in the application.</p> <p>4a) Of the above claim(s) <u>14-16</u> is/are withdrawn from consideration.</p> <p>5)<input type="checkbox"/> Claim(s) _____ is/are allowed.</p> <p>6)<input checked="" type="checkbox"/> Claim(s) <u>1-25</u> is/are rejected.</p> <p>7)<input type="checkbox"/> Claim(s) _____ is/are objected to.</p> <p>8)<input type="checkbox"/> Claim(s) _____ are subject to restriction and/or election requirement.</p>		
<b>Application Papers</b>		
<p>9)<input type="checkbox"/> The specification is objected to by the Examiner.</p> <p>10)<input checked="" type="checkbox"/> The drawing(s) filed on <u>5/9/01</u> is/are: a)<input checked="" type="checkbox"/> accepted or b)<input type="checkbox"/> objected to by the Examiner.</p> <p style="margin-left: 20px;">Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).</p> <p>11)<input type="checkbox"/> The proposed drawing correction filed on _____ is: a)<input type="checkbox"/> approved b)<input type="checkbox"/> disapproved by the Examiner.</p> <p style="margin-left: 20px;">If approved, corrected drawings are required in reply to this Office action.</p> <p>12)<input type="checkbox"/> The oath or declaration is objected to by the Examiner.</p>		
<b>Pri rity under 35 U.S.C. §§ 119 and 120</b>		
<p>13)<input type="checkbox"/> Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).</p> <p>a)<input type="checkbox"/> All    b)<input type="checkbox"/> Some * c)<input type="checkbox"/> None of:</p> <p style="margin-left: 20px;">1.<input type="checkbox"/> Certified copies of the priority documents have been received.</p> <p style="margin-left: 20px;">2.<input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____ .</p> <p style="margin-left: 20px;">3.<input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</p> <p>* See the attached detailed Office action for a list of the certified copies not received.</p> <p>14)<input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).</p> <p>a)<input type="checkbox"/> The translation of the foreign language provisional application has been received.</p> <p>15)<input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.</p>		
<b>Attachment(s)</b>		
<p>1)<input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2)<input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3)<input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .</p> <p>4)<input type="checkbox"/> Interview Summary (PTO-413) Paper No(s) _____ .</p> <p>5)<input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6)<input type="checkbox"/> Other: _____ .</p>		

## DETAILED ACTION

### *Election/Restrictions*

Claims 14-16 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made without traverse in Paper No. 3.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or  
(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

**Claim 1-13, 17, 20-21, and 24-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Walker U.S. Patent No. 6,418,415.**

Referring to claim 1. Walker discloses an aggregation engine (at least Fig.1, Central Controller 200) for use in aggregating demands according to an aggregation rule comprising:

- A demand processor (at least Fig.1, Central Controller 200), said demand processor being outfitted so as to process demands into groups based upon said aggregation rule (at least Abstract, "Groups are preferably formed dynamically in accordance with predefined aggregation rules.");

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- A group builder, said group builder being outfitted so as to compare incoming demands to existing groups, if one of said demands matches one of said existing groups (at least column 2, line 56 to column 3, line 7), assigning a group ID to said one of said demands that is associated with said one of said existing groups (at least Fig. 9), if said one of said demands does not match any of said existing groups, creating a new group and assigning a new group ID associated with the new group to said one of said demands (at least Fig. 13A, Fig. 13B, and Fig. 13C); and
- A rule engine, said rule engine being outfitted so as to build said aggregation rule according to predetermined parameters (at least Fig. 8).

Referring to claims 2-6. Walker further discloses an aggregation engine:

- Wherein said aggregation rule is a product ID rule [(Walker U.S. Patent No. 6,418,415: at least column 6, line 64 to column 7, line 21) and (Walker U.S. Patent No. 6,085,169: at least column 21, line 66 to column 22, line 25)];
- Wherein said aggregation rule is a classification-based rule [(Walker U.S. Patent No. 6,418,415: at least column 6, line 64 to column 7, line 21) and (Walker U.S. Patent No. 6,085,169: at least column 21, line 66 to column 22, line 25)];
- Wherein said aggregation rule supports a UN/SPSC classification [(Walker U.S. Patent No. 6,418,415: at least column 6, line 64 to column 7, line 21) and (Walker U.S. Patent No. 6,085,169: at least column 21, line 66 to column 22, line 25)];

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- Wherein said aggregation rule supports an e-class classification [(Walker U.S. Patent No. 6,418,415: at least column 6, line 64 to column 7, line 21) and (Walker U.S. Patent No. 6,085,169: at least column 21, line 66 to column 22, line 25)]; and
- Wherein said aggregation rule -supports hierarchical classifications [(Walker U.S. Patent No. 6,418,415: at least column 6, line 64 to column 7, line 21) and (Walker U.S. Patent No. 6,085,169: at least column 21, line 66 to column 22, line 25)].

Referring to claims 7-10. Walker further discloses an aggregation engine wherein

- Said aggregation engine receives said predetermined parameters from another application (at least Fig. 13A, Step **1302**);
- Said another application comprises a demand aggregation application (at least Fig. 13B, Step **1326**);
- Said aggregation engine receives said predetermined parameters in an XML-based format (at least column 9, lines 57-62); and
- Said aggregation engine converts units of said demands prior to outputting said groups to another application (at least column 13, lines 31-49).

Referring to claim 11. Walker discloses a process of aggregating demands comprising the steps of:

- Validating incoming data so as to ensure said data is valid (at least column 12, line 64 to column 13, line 15);

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- Processing said incoming data so as to extract an aggregation rule and at least one demand (at least Fig. 13A, Fig. 13B, and Fig. 13C);
- Processing said aggregation rule so as to apply said aggregation rule against said at least one demand to create at least one group based upon said aggregation rule (at least Fig. 9); and
- Outputting output data indicative of said at least one group (at least Fig. 7).

Referring to claims 12-13. Walker further discloses a process of aggregating demands:

- Wherein said incoming data is XML based (at least column 9, lines 57-62); and
- Wherein said output data is XML based (at least column 9, lines 57-62).

Referring to claim 17. Walker discloses a process of creating coalitions of demands comprising the steps of:

- Creating a process ID to identify a process through which said coalitions are to be created (at least Fig. 9, CPO Number **930**);
- Creating groups of demands based upon an application of an aggregation rule (at least Fig. 9, CONDITIONS **955**);
- Assigning a unique group ID for each group created and assigning said process ID to said demands (at least Fig. 9, CPO Number **930**);
- Assigning said demands to said coalitions based upon said group IDs (at least Fig. 9, CPO Number **930** and CONDITIONS **955**); and
- Once a predetermined time period has passed, closing said coalitions (at least Fig. 9, AGGREGATE CPO EXPIRATION DATE **950**).

Referring to claim 20. Walker further discloses a process of creating coalitions of demands wherein said aggregation rule is a classification-based rule [(Walker U.S. Patent No. 6,418,415: at least column 6, line 64 to column 7, line 21) and (Walker U.S. Patent No. 6,085,169: at least column 21, line 66 to column 22, line 25)].

Referring to claim 21. Walker further discloses a process of creating coalitions of demands comprising the steps of:

- Determining if any attributes of said demands are missing (at least Fig. 13B, Step **1318**); and
- If said attributes are missing, acquiring said attributes from another source (at least Fig. 13B).

Referring to claim 24. Walker discloses a process of aggregating demands according to an aggregation rule comprising the steps of:

- Collecting demands from a plurality of sources; creating groups of demands based upon an application of said aggregation rule (at least Fig. 13A, Fig. 13B, and Fig. 13C);
- Forwarding said demands to a demand aggregation application (at least Fig. 13B, STEP **1326**).

Referring to claim 25. Walker further discloses a process of aggregating demands comprising the steps of:

- Determining if any attributes of said demands are missing (at least Fig. 13B, Step **1318**); and

- If said attributes are missing, acquiring said attributes from another source (at least Fig. 13B).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 18-19 and 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker U.S. Patent No. 6,418,415 in view of Official Notice.**

Referring to claims 18-19. Walker discloses a process according to claim 17 as indicated supra. Walker further discloses a process of creating coalitions of demands comprising the step of permitting automatic addition of additional demands to said coalitions and also permitting coalitions to be automatically closed prior to said predetermined time period passing (at least Figs. 13A, Figs. 13B, and Figs. 13C). Walker does not expressly disclose a process of creating coalitions of demands comprising the step of permitting manual addition of additional demands to said coalitions and also permitting coalitions to be manually closed prior to said predetermined time period passing. Examiner takes Official Notice that the manual limitation present in the immediate application does not act to patentability distinguish the claimed invention. It would have been obvious to a person of ordinary skill in the art at the time of the invention to permit the manual limitation in lieu of Walker's automatic limitation, because the manual limitation is merely a step backwards in the Walker's

technology. It has generally been recognized that merely providing an automatic (manual) means to replace a manual (automatic) activity which accomplishes the same result is not sufficient to distinguish over the prior art, *In re Venner*, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958).

Referring to claim 22. Walker discloses a process of grouping demands automatically input into a system by a user into coalitions of demands comprising the steps of:

- Inputting demands into a demand aggregation application (at least Fig. 13A, Step **1308**);
- Analyzing said demands by applying an aggregation rule (at least Fig. 13A, Step **1314**);
- If said analysis of said demands indicates that said demands meet criteria of one or more of said coalitions, proposing said one or more of said coalitions to said user (at least Fig. 13A, Step **1316**);
- Permitting said user to assign said demands to said one or more of said coalitions (at least Fig. 13B, Step **1324**); and
- If said analysis of said demands indicates that said demands do not meet criteria of one or more of said coalitions, automatically creating a new coalition to accommodate said demands (at least Fig. 13C, Step **1344**).

Examiner takes Official Notice that the manual limitation present in the immediate application does not act to patentability distinguish the claimed invention. It would have been obvious to a person of ordinary skill in the art at the time of the invention to permit

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the manual limitation in lieu of Walker's automatic limitation, because the manual limitation is merely a step backwards in the Walker's technology. It has generally been recognized that merely providing an automatic (manual) means to replace a manual (automatic) activity which accomplishes the same result is not sufficient to distinguish over the prior art, *In re Venner*, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958).

Referring to claim 23. Walker in view of Official Notice discloses a process according to claim 22 as indicated supra. Walker further discloses a process of grouping demands comprising the steps of:

- Determining if any attributes of said demands are missing (at least Fig. 13B, Step 1318); and
- If said attributes are missing, acquiring said attributes from another source (at least Fig. 13B).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Silverman et al., U.S. Patent No. 5,136,501, August 4, 1992; discloses an anonymous matching system.

Brown, U.S. Patent No. 5,794,219, August 11, 1998; discloses a method of conducting an on-line auction with bid pooling.

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Shkedy, U.S. Patent No. 6,260,024, July 10, 2001; discloses a method and apparatus for facilitating buyer-driven purchase orders on a commercial network system.

Any inquiry concerning this communication should be directed to Matthew Gart whose telephone number is 703-305-5355. This examiner can normally be reached Monday-Friday, 8:30AM-5:30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Wynn Coggins can be reached on 703-308-1344. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.



MSG

December 3, 2002



WYNN W. COGGINS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600